

THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	
JAMES WALTER HART	§	CASE NO. 18-40363-R
XXX-XX-8111	§	
801 HEBRON PARKWAY	§	CHAPTER 13
# 11206	§	
LEWISVILLE, TX 75057	§	
	§	
DEBTOR	§	

MOTION TO DISMISS AND SETTING HEARING

**THE TRUSTEE REQUESTS THE COURT TO SET THIS MOTION FOR HEARING ON
April 16, 2019, AT 10:00 am AS FOLLOWS:**

**Plano Bankruptcy Courtroom
660 North Central Expressway
Third Floor
Plano, Texas 75074**

COMES NOW Carey D. Ebert, Chapter 13 Trustee, and files this Motion to Dismiss and Setting Hearing in the above numbered and styled proceeding, and for cause would show the Honorable Court as follows:

1. The Debtor's Chapter 13 Plan was confirmed by this Court on September 28, 2018. The Trustee's Reconciliation Concerning Claims was filed on January 31, 2019 (the "TRCC").
2. The Debtor's Plan does not provide enough funding to pay claims as scheduled in the TRCC. Specifically, the Debtor's Plan is underfunded because allowed amounts for the claims as reflected in the TRCC exceed the total amount the Debtor is to pay. The Debtor agreed to pay all allowed unsecured claims in full as a condition of confirmation. An additional \$34,400.00 is necessary to fund the Plan within the original plan term. No modification has been proposed to include such amount.
3. The TRCC provided notice that the Chapter 13 Plan fails to provide sufficient funding.

4. The failure of the Debtor to cure the infeasibility of the Plan constitutes an unreasonable delay by the Debtor that is prejudicial to creditors under 11 USC §1307(c)(1), and thus, cause exists for dismissal. Further, the Trustee would represent that the failure of the Debtor to cure the underfunding of the Plan constitutes additional cause for dismissal pursuant to 11 USC §1307(c)(6) of the Bankruptcy Code.

WHEREFORE, PREMISES CONSIDERED, Carey D. Ebert, prays that this case be dismissed for cause and for such other and further relief to which she may be entitled.

Respectfully submitted,

/s/ H. Jefferson LeForce

Carey D. Ebert, Chapter 13 Trustee, TBN 05332500

H. Jefferson LeForce TBN 00791094

Office of the Standing Chapter 13 Trustee

500 North Central Expressway, Suite 350

Plano, Texas 75074

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion to Dismiss and Setting Hearing has been served upon the following parties in interest by mailing a copy of same to them via first class mail and uploaded to the Court for service by the Bankruptcy Noticing Center to the parties on the Court's mailing matrix on the date set forth below.

JAMES WALTER HART
801 HEBRON PARKWAY
11206
LEWISVILLE, TX 75057

ALLMAND LAW FIRM, PLLC
860 AIRPORT FREEWAY, SUITE 401
HURST, TX 76054

Dated: March 22, 2019

/s/ H. Jefferson LeForce
Office of the Standing Chapter 13 Trustee